

February 4, 1975

SENATOR CAVANAUGH: That's what I'm saying. Would that be a greater guarantee? I'm not questioning anyone's integrity. I assume that the purpose that escalation clauses were not permitted in the past was because of the unwieldiness of them anyway. They are a dangerous way to contract, because you lose control over your contract price. When you're spending governmental monies, I assume that the public policy was that that was too dangerous a thing to get involved in. If we could arrive at some reasonable figure, percentage figure, I would think that would provide a greater protection than the language that you attempted to provide that protection with. If you don't have an objection to that?

SENATOR STONEY: Well I have no objection to it. The only problem we might encounter is the possibility that ten or fifteen percent may not cover what the inflationary factor might be. I don't know. I don't bid on these items.

SENATOR CAVANAUGH: Well I won't raise such an amendment at this time, but I may raise one on Select File.

SENATOR STONEY: Very fine.

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Cavanaugh touched on a matter that concerns me too. As I read the language, and I think subsection 4 on page 4, and number 3 on page 6, I think are basically the same language. It deals with . . . and I'm going to just take some of these words and put together a statement . . . that if the bids received, however many number of bids are received, exceed the estimated cost in terms of what the council or whoever, the board making the contract would feel is reasonable, then they can disregard all bids and negotiate a contract. Included in the contract would be an escalation clause which would let the cost rise to a level commensurate with what's found in the current market trends at the time, the contract is being completed, or at any point in the contract when costs rise, even though those costs might drop before the contract is completed. Senator Stoney mentioned that Senator Cavanaugh's amendment questioned the integrity of various people. Senator Cavanaugh said, no that's not what his amendment did. But personally where money is concerned, especially large amounts, I don't assume that anybody has integrity. I assume that everybody's going to get as much for their dollar as they can, or get as many dollars for their service as they can. This is why, in spite of all the talk about how honest businessmen can be presumed to be, the most complicated contracts you find are those among various businessmen. Because they know that they're all fast dealers, they have high powered legal counsel to find ways, not only to get tax shelters, but to put sleeper clauses in contracts with various governmental bodies. So contracts are carefully drawn between business interests. I think a statute of this kind is something in the nature of a contract. It's not a contract, so I want to make that clear. I'm making an analogy. It's something in the nature of a contract between this Legislature and those operations which are going to make contracts with governmental bodies, who do spend the taxpayers money whenever they enter into a contract. What is being stated here, and I'm gonna take it at its worst, is that three companies put in bids. All of them higher than what the city thinks, or whatever the body is, is appropriate. Then, I feel from the way the bill is drafted, the city can negotiate